

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

JOHN EARL WARD,

Petitioner,

vs.

MICHAEL BUDGE, et al.,

Respondents.

Case No. 03:04-CV-00288-LRH (RAM)

ORDER

The Court found that several grounds of the Petition for a Writ of Habeas Corpus (#6) were unexhausted. Order #18. Petitioner, John Earl Ward, responded (#21) that he wanted to dismiss the Petition (#6) and return to state court to exhaust those grounds. The Court granted his request and dismissed the action. Order #22. Ward now asks the Court not to dismiss the action but to stay it while he exhausts his grounds in state court. Letter #24. He does not show that good cause exists to stay this action. See Rhines v. Weber, ___ U.S. ___, 125 S. Ct. 1528, 1534-35 (2005). Ward simultaneously declares that he wishes to abandon the unexhausted grounds and proceed in this Court with the exhausted grounds. Declaration #25. These options are mutually exclusive; Ward must choose one.

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1 IT IS THEREFORE ORDERED that Petitioner shall have thirty (30) days from the date on
2 which this Order is entered to (1) inform this Court in a sworn declaration, signed by Petitioner
3 himself, that he wishes to dismiss Grounds 1, 2(2) through 2(5) and 2(7) through 2(16), 4, 6, 7, 8, 9,
4 and the portion of Ground 5 concerning the merger of possession of a stolen vehicle and eluding a
5 police officer of his Petition (#6), and proceed only on the remaining grounds, or (2) move to stay
6 this action while he returns to state court to exhaust his State remedies with respect to the
7 aforementioned grounds.

8 DATED this 6th day of December, 2005.

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LARRY R. HICKS
United States District Judge